

MEMO ENDORSED

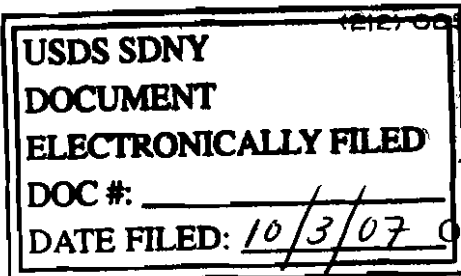
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October 3, 2007

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Via ECF and By Fax: 212-805-7949

Honorable P. Kevin Castel
United States District Court for the
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Fashion World Ltd. v. Green, et al.*
Case No. 07-CV-6108

Dear Judge Castel:

We represent defendants Jeff Green, Ziari International Ltd., US Merchants Financial Group, Inc. and The Merchant of Tennis Inc. (the "Green Defendants") in the above referenced action. Pursuant to Rule 2(a)(1) of Your Honor's Rules, we respectfully request a pre-motion conference in connection with our clients' intention to make a motion for a default judgment under Rule 55(b)(2) of the Federal Rules of Civil Procedure against co-defendants Lisa Nunziata and Metamorphosis, Inc., based upon said co-defendants' default in responding to the Green Defendants' Cross-Claims.

On August 15, 2007, the Green Parties filed their Answer, Counterclaims and Cross-Claims in this matter, asserting a number of cross-claims against defendants Lisa Nunziata and Metamorphosis, Inc. Pursuant to Rules 5(b)(1)(D), 6(c) and 12(a)(2) of the Federal Rules of Civil Procedure, Ms. Nunziata and Metamorphosis were required to file an answer to the Cross-Claims within twenty three days of the filing of the Green Parties' Answer on ECF, or by September 7, 2007. No response was, however, filed or served and Nunziata and Metamorphosis are accordingly now in default.¹

¹ The Answer also asserts cross-claims against Additional Cross-Claim Defendants Ping Lung and Alex Chang; however, we have to date been unable to effect service on these parties.

The November 16 conference will be the pre-motion conference on this application to file a default motion, as well as a pretrial conference.
SO ORDERED
USDS
10-3-07

HELLER, HOROWITZ & FEIT, P.C.

Honorable P. Kevin Castel

October 3, 2007

Page 2

By letter dated September 24, 2007, directed to counsel for Nunziata and Metamorphosis, I pointed out the default and demanded that an Answer to the Cross-Claims be filed and served. Once again, no answer has been received.²

The parties are scheduled to appear before Your Honor for a discovery conference on November 16, 2007 at 10:45 AM. It is respectfully requested that the pre-motion conference be held at that time as well.

Respectfully submitted,

Stuart A. Blander (SB2510)

SAB:cfid

cc: Joseph Mattone, Esq.
Bernard F. Ferrera, Esq.
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Attorney for Additional Cross-Claim Defendant Darryl Maynard

² In a "stipulation and order" plaintiff has purported to dismiss without prejudice its claims against Nunziata and Metamorphosis. Putting aside the question of whether the stipulation complies with Rule 41(a) of the Federal Rules of Civil Procedure, such dismissal can, of course, have no impact upon the Green Parties' previously filed Cross-Claims against Nunziata and Metamorphosis.